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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/039,470	11/09/2001	John P. Gagnon	FXI01-03	1034

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David E. Huang, Esq.  
CHAPIN & HUANG, L.L.C.  
Westborough Office Park  
1700 West Park Drive  
Westborough, MA 01581

EXAMINER

BECK, DAVID THOMAS

ART UNIT	PAPER NUMBER
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1732

DATE MAILED: 12/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/039,470

Applicant(s)

GAGNON ET AL.

Examiner

David T. Beck

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 November 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 November 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The information disclosure statement filed March 9, 2002 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each U.S. and foreign patent; each publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the article from Cabling Business Magazine entitled "SuperCat 1000 Enhanced Category 6 Cable Solution", March 2001, Page 34 has not been considered.

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Rutten et al (4,810,570).

With regard to claim 1, Rutten et al teaches a method for making a run of cross-linked non-halogenated flame retardant polyolefin material, the method comprising the steps of: extruding (column 3, lines 32-40) molten non-halogenated (column 2, lines 44-45) flame retardant (column 3, line 4) polyolefin material (column 2, lines 1-3) through a die that defines an elongated opening which is at least 7.5 centimeters wide (column 4, lines 41-44); cooling the extruded non-halogenated flame retardant polyolefin material so that the extruded non-halogenated flame retardant polyolefin material hardens into a

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sheet of non-halogenated flame retardant polyolefin material (column 3, lines 32-40); and cross-linking the sheet of non-halogenated flame retardant polyolefin material (column 4, lines 16-21).

With regard to claim 2, Rutten et al teaches applying an electron-beam to the sheet of non-halogenated flame retardant polyolefin material (column 4, lines 16-21).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rutten et al (4,810,570) in view of Capik et al (5,354,597).

With regard to claim 3, Rutten et al discloses the invention of claim 1 as described above, but does not expressly disclose forming, as the sheet of non-halogenated flame retardant polyolefin material, a web having a width which is at least 40 centimeters wide. Capik et al discloses extruding a polypropylene sheet through a die that is 46 cm wide (column 18, lines 32-33). Rutten et al and Capik et al are analogous art because they both deal with the technical challenge of extruding tape through a die. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to use the die of Capik in the process of Rutten et al to create a

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web of tape material that was 46 cm wide. The motivation to do so would have been to create a more efficient process by producing more material in one run.

With regard to claim 4, the examiner takes official notice of the fact that it is well known in the art to wind sheet like material onto a core that is of equal or greater length than the width of the sheet like material, for example when paper towels are wound on a cardboard tube having the same width as the towel web.

5. Claims 5-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rutten et al (4,810,570) in view of Coburn et al (4,017,251).

With regard to claim 5, Rutten et al discloses the invention of claim 1 as described above, but does not expressly disclose dividing the sheet of non-halogenated flame retardant polyolefin material lengthwise to form multiple feeds of non-halogenated flame retardant polyolefin material. Coburn et al discloses dividing a sheet of tape material lengthwise to form multiple feeds of material (column 2, lines 13-32). Coburn et al and Rutten et al are analogous art because they both deal with the technical challenge of manufacturing tape by extrusion. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to slit the sheet lengthwise as taught by Coburn et al in the process taught by Rutten et al. The motivation to do so would have been to make individual rolls of tape cut to a desired usable dimension.

With regard to claim 6 and 7, the selection of any order of performing process steps is prima facie obvious in the absence of new or unexpected results. *In re Burhans*, 154 F.2d 690, 69 USPQ 330 (CCPA 1946). Therefore it would be prima facie obvious to slit the sheet of material either before or after cross-linking.

With regard to claim 8, Coburn et al teaches concurrently winding the multiple feeds of tape material onto multiple cores (column 2, lines 13-32).

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David T. Beck whose telephone number is 571-272-2942. The examiner can normally be reached on Monday - Friday, 8AM - 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Colaianni can be reached on 517-272-1196. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DTB  
December 15, 2004

DTB

  
**MICHAEL P. COLAIANNI**  
**SUPERVISORY PATENT EXAMINER**